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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/241,127	02/01/1999	GEORG SCHWINN	HH253-KFM	8242

7590 07/16/2002
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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771


DATE MAILED: 07/16/2002

22

Please find below and/or attached an Office communication concerning this application or proceeding.

AS22

Office Action Summary

Application No. 09/241,127	Applicant(s) Georg Schwinn	
Examiner Ula Corinna Ruddock	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 15, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

1. The Examiner has carefully considered Applicant's present response filed April 15, 2002. The rejection in view of DE 19647458 has been overcome due the statement that both the present invention and DE 19647458 are both commonly owned and have the same inventors.

Claim Objections

2. Claim 4 is objected to because of the following informalities: in order to conform to standard U.S. practice, the word "characterized" in claim 4 should be changed to "wherein."

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "article" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 6, the phrase "waffle-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "waffle-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

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The dependent claims are rejected as being dependent upon a rejected independent claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 5, 6, 7, 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin et al. (US 5,415,925). Austin et al. disclose a nonwoven fabric comprising at least two nonwoven webs bonded by a lightweight adhesive web. The outer plies are nonwoven fibrous webs, i.e. fibrous battings (col 3, ln 40-66). With regard to claim 8, the webs can be composed of polyethylene filaments (col 3, ln 45-52). The plies are bonded using an adhesive layer (col 4, ln 49-50) and can be applied in a continuous or discontinuous pattern and in uniform or random point patterns (col 4, ln 61-64). With regard to claim 2, the patterns can be applied by a printing method (col 4, ln 65-67). The adhesive layer must be of a very low basis weight so that it does not significantly alter the flexibility and hand properties of the composite fabric. The adhesive layer forms a very light, wispy, gossamer web of adhesive which can be hardly be seen in the fabric, but which provides excellent inter-ply adhesion (col 5, ln 10-20). The adhesive is preferably a

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thermoplastic-based hot melt adhesive which is tacky at room temperature and can be styrene-butadiene copolymers and polyolefin-based polymers (col 4, ln 52-60). Therefore, because Austin's adhesives are the same as those disclosed on page 10 of the present specification, they would have elastic properties at room temperature such that the inner layer causes the article to recover after tensile loading, thereby to allow said article to be elastically stretched.

With regard to claims 1, 4-7, and 20, while Austin et al. teach that the adhesive can be applied in a continuous or discontinuous pattern and in uniform or random point patterns, it fails to specifically disclose that the adhesive is applied in a latticework configuration, in parallel strips, parallel strips that are straight or meandering, zig-zag or sinusoid curves wherein each adjacent pair of strands have vertices which touch or overlap in a mirror symmetric configuration, forming a waffle-like configuration, and interrupted segments. It would have been obvious to one having ordinary skill in the art to have applied the adhesive of Austin et al. in the various patterns claimed by Applicant, motivated by the desire to obtain a laminate with breathability and flexibility in the desired portions of the laminated web.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Austin et al. (US 5,415,925), as shown above, in view of Strack et al. (US 5,681,645). Austin et al. disclose the claimed invention except for the specific teaching that the printing process is selected from the group consisting of intaglio printing, flexoprinting, and screen printing. Strack et al. (US 5,681,645)

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disclose flat elastomeric nonwoven laminates having an adhesive pre-applied to the nonwoven elastomeric web (col 9, ln 47-49). The adhesive is applied by screen printing or flexographic printing (col 9, ln 54-62). It would have been obvious to use the adhesive printing methods as taught by Strack et al. on the nonwoven fabric of Austin et al., motivated by the desire to obtain a fabric having elasticity and to allow for air permeability.

Response to Arguments

8. Applicant's arguments with respect to claims 1-8 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock *UCR*
Patent Examiner
Art Unit 1771
July 15, 2002

Ula Ruddock